

REMARKS

Claims 1-3, 6-12, 17-22, 25-31, 36-40, 42, 43, 45 and 46 are all the claims pending in the application.

I. Claim Rejections under 35 U.S.C. § 112, first and second paragraphs

Claims 1-3, 6-12, 17-22, 25-31, 36-40, 42, 43, 45 and 46 have been rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement, and have also been rejected under 35 U.S.C. 112, second paragraph as being indefinite.

Without acquiescing to the above-noted rejections, in order to expedite prosecution, Applicants have amended claims 1 and 2 in order to more clearly define the B/F separation aspect of the present invention. In particular, Applicants note that claims 1 and 2 have both been amended to recite that "by permeating the inspection target solution of the amount regulated by the volume of said cavity part into said development layer, B/F separation of the marker reagent in said reagent immobilization part is implemented".

Applicants note that the above-noted feature is supported at least by pages 39-40 of the specification, and is also consistent with the Examiner's comments on pages 2-3 of the Office Action with respect to the disclosure at pages 39-40 of the specification.

In view of the foregoing, Applicants respectfully submit that the above-noted feature recited in amended claims 1 and 2 is described in the specification in such a way so as to reasonably convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention, and that one of ordinary skill in the art would readily be able to ascertain the meaning of the above-noted feature.

Accordingly, Applicants kindly request that the Examiner reconsider and withdraw the above-noted rejections under 35 U.S.C. 112, first and second paragraphs.

II. Double Patenting

Claims 1-3, 6-12, 17-22, 25-31, 36-40, 42, 43, 45 and 46 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. 7,112,451 in view of Wenz et al. (U.S. 3,715,192). Applicants note that the Examiner has also indicated that similar provisional double patenting rejections would apply based on copending Application Nos. 10/398,711 and 10/048,727 in view of Wenz et al.

Applicants hereby request that the above-noted double patenting rejections be held in abeyance pending the indication of allowable subject matter. If the double patenting rejections are the only remaining rejections in the application, Applicants will file a terminal disclaimer, if necessary, in order to overcome such rejections.

III. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited.

If any points remain in issue which the Examiner feels may best be resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Masataka NADAOKA et al.

/Kenneth W. Fields/

By: 2008.09.18 16:05:34 -04'00'

Kenneth W. Fields
Registration No. 52,430
Attorney for Applicants

KWF/krq
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
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